

109TH CONGRESS  
2D SESSION

# S. 2762

To amend title 38, United States Code, to ensure appropriate payment for the cost of long-term care provided to veterans in State homes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 8, 2006

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to ensure appropriate payment for the cost of long-term care provided to veterans in State homes, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Veterans Long-Term  
5       Care Security Act of 2006”.

1 **SEC. 2. REQUIREMENT FOR REPORT TO CONGRESS BE-**  
2 **FORE IMPLEMENTATION OF REDUCTION IN**  
3 **PER DIEM RATES FOR CARE PROVIDED TO**  
4 **VETERANS IN STATE HOMES.**

5 (a) REQUIREMENT FOR REPORT.—Subsection (c) of  
6 section 1741 of title 38, United States Code, is amended—

7 (1) by inserting “(1)” after “(c)”; and

8 (2) by adding at the end the following new  
9 paragraph:

10 “(2)(A) If the Secretary proposes to implement a re-  
11 duction in payments made under this section with respect  
12 to a fiscal year the Secretary shall, not later than January  
13 1 of the preceding fiscal year, submit to the Committee  
14 on Veterans’ Affairs of the Senate and the Committee on  
15 Veterans’ Affairs of the House of Representatives a report  
16 containing a detailed justification of such proposed reduc-  
17 tion.

18 “(B) For purposes of this paragraph, a reduction in  
19 payments is—

20 “(i) a lack of increase in the rates paid under  
21 subsection (a) pursuant to a determination of the  
22 Secretary under paragraph (1); or

23 “(ii) a modification of the eligibility for vet-  
24 erans to receive care in State homes that would, if  
25 enacted into law, result in fewer veterans eligible to  
26 receive such care in State homes.

1 “(C) In preparing a report under subparagraph (A),  
2 the Secretary shall consult with the heads and appropriate  
3 officials of the State and local agencies responsible for the  
4 supervision of State homes in each State in which State  
5 homes are operated, and representatives of such other or-  
6 ganizations with expertise in State home matters as the  
7 Secretary determines appropriate.

8 “(D) A report under subparagraph (A) shall include  
9 the following information:

10 “(i) A specific description of the degree to  
11 which the proposed reduction in payments would ef-  
12 fect the financial well-being of each State home.

13 “(ii) A detailed description of the consultation  
14 with heads, officials, and representatives required  
15 under subparagraph (C), and the results of that con-  
16 sultation.

17 “(iii) A description of the intent of the Sec-  
18 retary to recover grant amounts under section  
19 8136(a) of this title where a State determines, as a  
20 result of the proposed reduction in payments, to  
21 close a State home within the period prescribed  
22 under that section.

23 “(iv) A description of the effect of the proposed  
24 reduction in payments on the long-term care needs  
25 of veterans who receive care in State homes, includ-

1       ing a description of the options for long-term care  
 2       in reasonably proximate facilities available to such  
 3       veterans and an assessment of the cost of the provi-  
 4       sion of care for such veterans in such facilities.”.

5       (b) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall take effect on the date of enactment  
 7 of this Act, and apply with respect to per diem payments  
 8 made under section 1741 of title 38, United States Code,  
 9 on or after such date.

10 **SEC. 3. NURSING HOME CARE AND PRESCRIPTION MEDICA-**  
 11 **TIONS IN STATE HOMES FOR VETERANS WITH**  
 12 **SERVICE-CONNECTED DISABILITIES.**

13       (a) NURSING HOME CARE.—Subchapter V of chapter  
 14 17 of title 38, United States Code, is amended by adding  
 15 at the end the following new section:

16 **“§ 1744. Nursing home care and medications for vet-**  
 17 **erans with service-connected disabilities**

18       “(a)(1) The Secretary shall pay each State home for  
 19 nursing home care at the applicable rate payable under  
 20 section 1720 of this title for nursing home care furnished  
 21 in a non-Department nursing home (as that term is de-  
 22 fined in subsection (e)(2) of such section), where such care  
 23 is provided to any veteran as follows:

24       “(A) Any veteran in need of such care for a  
 25       service-connected disability.

1 “(B) Any veteran who—

2 “(i) has a service-connected disability rated  
3 at 70 percent or more; and

4 “(ii) is in need of such care.

5 “(2) Payment by the Secretary under paragraph (1)  
6 to a State home for nursing home care provided to a vet-  
7 eran described in that paragraph constitutes payment in  
8 full to the State home for such care furnished to that vet-  
9 eran.”.

10 (b) PROVISION OF PRESCRIPTION MEDICINES.—

11 Such section is further amended by adding at the end the  
12 following new subsection:

13 “(b) The Secretary shall furnish such drugs and  
14 medicines as may be ordered on prescription of a duly li-  
15 censed physician as specific therapy in the treatment of  
16 illness or injury to any veteran as follows:

17 “(1) Any veteran in need of such drugs and  
18 medicines for a service-connected disability.

19 “(2) Any veteran who—

20 “(A) has a service-connected disability  
21 rated at 50 percent or more;

22 “(B) is provided nursing home care that is  
23 payable under subsection (a); and

24 “(C) is in need of such drugs and medi-  
25 cines.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) CRITERIA FOR PAYMENT.—Section  
3 1741(a)(1) of such title is amended by striking  
4 “The” and inserting “Except as provided in section  
5 1744 of this title, the”.

6 (2) ELIGIBILITY FOR NURSING HOME CARE.—  
7 Section 1710(a)(4) of such title is amended—

8 (A) by striking “and” before “the require-  
9 ment in section 1710B of this title”; and

10 (B) by inserting “, and the requirement in  
11 section 1744 of this title to provide nursing  
12 home care and prescription medicines to vet-  
13 erans with service-connected disabilities in State  
14 homes” after “a program of extended care serv-  
15 ices”.

16 (d) CLERICAL AMENDMENT.—The table of sections  
17 at the beginning of chapter 17 of such title is amended  
18 by inserting after the item relating to section 1743 the  
19 following new item:

“1744. Nursing home care and medications for veterans with service-connected  
disabilities.”.

20 (e) EFFECTIVE DATE.—The amendment made by  
21 this section shall take effect on October 1, 2006.

1 **SEC. 4. AUTHORITY TO TREAT CERTAIN HEALTH FACILI-**  
 2 **TIES AS STATE HOMES.**

3 (a) AUTHORITY.—Subchapter III of chapter 81 of  
 4 title 38, United States Code, is amended by adding at the  
 5 end the following new section:

6 **“§ 8138. Treatment of certain health facilities as State**  
 7 **homes**

8 “(a) The Secretary may treat a health facility as a  
 9 State home for purposes of subchapter V of chapter 17  
 10 of this title if the following requirements are met:

11 “(1) The facility meets the standards for the  
 12 provision of nursing home care that is applicable to  
 13 State homes, as prescribed by the Secretary under  
 14 section 8134(b) of this title, and such other stand-  
 15 ards relating to the facility as the Secretary may re-  
 16 quire.

17 “(2) The facility is licensed or certified by the  
 18 appropriate State and local agencies charged with  
 19 the responsibility of licensing or otherwise regulating  
 20 or inspecting State home facilities.

21 “(3) The State demonstrates in an application  
 22 to the Secretary that, but for the treatment of a fa-  
 23 cility as a State home under this subsection, a sub-  
 24 stantial number of veterans residing in the geo-  
 25 graphic area in which the facility is located who re-

1       quire nursing home care will not have access to such  
2       care.

3               “(4) The Secretary determines that the treat-  
4       ment of the facility as a State home best meets the  
5       needs of veterans for nursing home care in the geo-  
6       graphic area in which the facility is located.

7               “(5) The Secretary approves the application  
8       submitted by the State with respect to the facility.

9       “(b) The Secretary may not treat a health facility as  
10   a State home under subsection (a) if the Secretary deter-  
11   mines that such treatment would increase the number of  
12   beds allocated to the State in excess of the limit on the  
13   number of beds provided for by regulations prescribed  
14   under section 8134(a) of this title.

15       “(c) The number of beds occupied by veterans in a  
16   health facility for which payment may be made under sub-  
17   chapter V of chapter 17 of this title by reason of sub-  
18   section (a) shall not exceed the number of veterans in beds  
19   in State homes that otherwise would be permitted in the  
20   State under regulations prescribed under section 8134(a)  
21   of this title.

22       “(d) The number of beds in a health facility in a  
23   State that has been treated as a State home under sub-  
24   section (a) shall be taken into account in determining the



1 unmet need for beds for State homes for the State under  
2 section 8134(d)(1) of this title.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of chapter 81 of such title is amended  
5 by inserting after the item relating to section 8137 the  
6 following new item:

“8138. Treatment of certain health facilities as State homes.”.

